

HOUSE BILL No. 1272

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-18-7; IC 11-10; IC 22-4.1-4-4; IC 22-5; IC 35-43-5.

Synopsis: Illegal immigration. Requires: (1) the department of workforce development to determine and file an annual report on the number, industries of employment, and wage rates of unauthorized aliens; and (2) public employers and public contractors to use E-Verify to verify the work eligibility status of all newly hired employees. Requires the department of correction to: (1) evaluate the citizenship and immigration status of a committed offender; and (2) notify and work with the United States Department of Homeland Security to deport offenders who are in the United States unlawfully. Requires the attorney general to: (1) verify quarterly whether an order has been issued or a criminal penalty has been imposed under a federal law regarding the employment of unauthorized aliens against a person or other entity doing business in Indiana; and (2) order the appropriate agencies to permanently revoke all licenses held by a person or entity who has had an order issued or a criminal penalty imposed against the person or entity. Provides that: (1) a person who counterfeits or falsely reproduces a driver's license with intent to use the license or to permit another person to use the license commits a Class D felony (instead of a Class B misdemeanor); and (2) a person who knowingly or intentionally produces or distributes a document that is not issued by a government entity and that purports to be a government issued identification commits a Class C felony (instead of a Class A misdemeanor). Makes making or distributing a forged instrument a Class B felony.

Effective: July 1, 2009.

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January 13, 2009, read first time and referred to Committee on Interstate and International Cooperation.



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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1272

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-24-18-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A person who
3 counterfeits or falsely reproduces a driving license with intent to use
4 the license or to permit another person to use the license commits a
5 ~~Class B misdemeanor.~~ **Class D felony.**

6 SECTION 2. IC 11-10-1-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A committed
8 criminal offender shall, within a reasonable time, be evaluated
9 regarding:

10 (1) ~~his~~ **the offender's** medical, psychological, educational,
11 vocational, economic and social condition, and history;

12 (2) the circumstances surrounding ~~his~~ **the offender's** present
13 commitment;

14 (3) ~~his~~ **the offender's** history of criminality; ~~and~~

15 **(4) the citizenship or immigration status of the offender; and**

16 ~~(4)~~ **(5)** any additional relevant matters.

17 (b) In making the evaluation prescribed in subsection (a), the

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department may utilize any presentence report, any presentence memorandum filed by the offender, any reports of any presentence physical or mental examination, the record of the sentencing hearing, or other information forwarded by the sentencing court or other agency, if that information meets the department's minimum standards for criminal offender evaluation.

(c) If an offender has undergone, within two (2) years before the date of ~~his~~ **the offender's** commitment, a previous departmental evaluation under this section, the department may rely on the previous evaluation and the information used at that time. However, this subsection does not deprive an offender of the right to a medical and dental examination under IC 11-10-3.

(d) If the department is unable to verify the citizenship or immigration status of a committed criminal offender, the department shall notify the United States Department of Homeland Security that the citizenship or immigration status of the offender could not be verified. The department shall work with the United States Department of Homeland Security to deport a committed criminal offender who is unlawfully present in the United States.

SECTION 3. IC 11-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A committed offender shall, within a reasonable time, be evaluated regarding:

- (1) ~~his~~ **the offender's** medical, psychological, educational, vocational, economic and social condition, and history;
- (2) the circumstances surrounding ~~his~~ **the offender's** present commitment;
- (3) ~~his~~ **the offender's** history of delinquency; ~~and~~
- (4) the citizenship or immigration status of the offender; and**
- ~~(4) (5)~~ **(5) any additional relevant matters.**

(b) In making the evaluation prescribed in subsection (a), the department may utilize reports of any precommitment physical or mental examination or other information or records forwarded by the committing court or other agency, if that information meets the department's minimum standards for delinquent offender evaluation.

(c) If a committed offender has undergone, within one (1) year before the date of ~~his~~ **the offender's** commitment, a previous departmental evaluation under this section, the department may rely on the previous evaluation and the information used at that time. However, this subsection does not deprive an offender of the right to a medical and dental examination under IC 11-10-3.

(d) If the department is unable to verify the citizenship or immigration status of a committed offender, the department shall

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1 notify the United States Department of Homeland Security that the
 2 citizenship or immigration status of the committed offender could
 3 not be verified. The department shall work with the United States
 4 Department of Homeland Security to deport a committed offender
 5 who is unlawfully present in the United States.

6 SECTION 4. IC 22-4.1-4-4 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2009]: Sec. 4. (a) As used in this section, "unauthorized alien"
 9 has the meaning set forth in 8 U.S.C. 1324a(h).

10 (b) The department shall determine the following each year:

11 (1) The number of unauthorized aliens who are working in
 12 Indiana.

13 (2) The industries in which unauthorized aliens are employed
 14 in Indiana.

15 (3) The wage rates paid to unauthorized aliens in Indiana.

16 (c) The department shall prepare and file an annual report that
 17 includes the information required under subsection (b) with the
 18 legislative council before December 31 of each year. The report
 19 filed with the legislative council must be in an electronic format
 20 under IC 5-14-6.

21 SECTION 5. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2009]:

24 Chapter 1.5. Employment of Unauthorized Aliens

25 Sec. 1. As used in this chapter, "agency" means any state or
 26 local administration, agency, authority, board, bureau,
 27 commission, committee, council, department, division, institution,
 28 office, service, or other similar body of government created or
 29 established by law that issues a license for purposes of operating a
 30 business in Indiana.

31 Sec. 2. (a) As used in this chapter, "license" means any permit,
 32 certificate, approval, registration, charter, or similar authorization
 33 that is:

34 (1) required by law; and

35 (2) issued by an agency;

36 for purposes of operating a business in Indiana.

37 (b) The term does not include an occupational or professional
 38 license.

39 Sec. 3. The attorney general shall verify quarterly whether an
 40 order has been issued or a criminal penalty has been imposed
 41 under 8 U.S.C. 1324a(f) against a person or other entity doing
 42 business in Indiana.

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1 **Sec. 4.** If, after an investigation, the attorney general determines
 2 that an order has been issued or a criminal penalty has been
 3 imposed under 8 U.S.C. 1324a(f) against a person or other entity
 4 doing business in Indiana, the attorney general shall order the
 5 appropriate agencies to permanently revoke all licenses held by the
 6 person or entity.

7 **Sec. 5.** If an agency receives an order from the attorney general
 8 under section 4 of this chapter, the agency immediately shall
 9 revoke the license or licenses that are held by the person or entity
 10 to which the order relates.

11 **SECTION 6.** IC 22-5-2.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2009]:

14 **Chapter 2.5. Verification of Employment Status**

15 **Sec. 1. (a)** As used in this chapter, "contractor" means a person
 16 that has a public contract for services with a state agency or
 17 political subdivision.

18 **(b)** The term includes a subcontractor, contract employee, or
 19 staffing agency.

20 **Sec. 2.** As used in this chapter, "political subdivision" has the
 21 meaning set forth in IC 36-1-2-13.

22 **Sec. 3.** As used in this chapter, "public contract for services"
 23 means any type of agreement, regardless of how the agreement is
 24 denominated, between a state agency or political subdivision and
 25 a contractor for the procurement of services.

26 **Sec. 4.** As used in this chapter, "public employer" means a state
 27 agency or political subdivision.

28 **Sec. 5.** As used in this chapter, "state agency" has the meaning
 29 set forth in IC 4-6-3-1.

30 **Sec. 6.** As used in this chapter, "E-Verify" means the
 31 employment verification pilot program jointly administered by the
 32 United States Department of Homeland Security and the Social
 33 Security Administration or its successor program.

34 **Sec. 7.** As used in this chapter, "unauthorized alien" has the
 35 meaning set forth in 8 U.S.C. 1324a(h).

36 **Sec. 8.** A public employer shall use E-Verify to verify the work
 37 eligibility status of all employees of the public employer hired after
 38 June 30, 2009.

39 **Sec. 9.** A contractor shall use E-Verify to verify the work
 40 eligibility status of all employees of the contractor hired after June
 41 30, 2009.

42 **Sec. 10.** After June 30, 2009, a public employer may not enter

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1 into a public contract for services with a contractor unless the
 2 contractor uses E-Verify to verify the work eligibility status of the
 3 contractor's newly hired employees.

4 SECTION 7. IC 35-43-5-2, AS AMENDED BY P.L.106-2006,
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2009]: Sec. 2. (a) A person who knowingly or intentionally:

7 (1) makes or utters a written instrument in such a manner that it
 8 purports to have been made:

9 (A) by another person;

10 (B) at another time;

11 (C) with different provisions; or

12 (D) by authority of one who did not give authority; or

13 (2) possesses more than one (1) written instrument knowing that
 14 the written instruments were made in a manner that they purport
 15 to have been made:

16 (A) by another person;

17 (B) at another time;

18 (C) with different provisions; or

19 (D) by authority of one who did not give authority;

20 commits counterfeiting, a Class D felony.

21 **(b) A person who knowingly or intentionally makes more than**
 22 **one (1) written instrument in such a manner that the written**
 23 **instrument purports to have been made:**

24 **(1) by another person;**

25 **(2) at another time;**

26 **(3) with different provisions; or**

27 **(4) by authority of one who did not give authority;**

28 **or who knowingly or intentionally distributes such a written**
 29 **instrument commits making or distributing a forged instrument,**
 30 **a Class B felony.**

31 ~~(b)~~ **(c)** A person who, with intent to defraud, makes, utters, or
 32 possesses a written instrument in such a manner that it purports to have
 33 been made:

34 (1) by another person;

35 (2) at another time;

36 (3) with different provisions; or

37 (4) by authority of one who did not give authority;

38 commits forgery, a Class C felony.

39 ~~(c)~~ **(d)** This subsection applies to a person who applies for a driver's
 40 license (as defined in IC 9-13-2-48). A person who:

41 (1) knowingly or intentionally uses a false or fictitious name or
 42 gives a false or fictitious address in an application for a driver's

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1 license or for a renewal or a duplicate of a driver's license; or
 2 (2) knowingly or intentionally makes a false statement or conceals
 3 a material fact or otherwise commits fraud in an application for a
 4 driver's license;

5 commits application fraud, a Class D felony.

6 ~~(d)~~ (e) This subsection applies to a person who applies for a state
 7 identification card (as issued under IC 9-24-16). A person who:

8 (1) knowingly or intentionally uses false information in an
 9 application for an identification card or for a renewal or duplicate
 10 of an identification card; or

11 (2) knowingly or intentionally makes a false statement or
 12 otherwise commits fraud in an application for an identification
 13 card;

14 commits application fraud, a Class D felony.

15 SECTION 8. IC 35-43-5-2.5, AS ADDED BY P.L.109-2006,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2009]: Sec. 2.5. (a) A person who knowingly or intentionally
 18 possesses ~~produces, or distributes~~ a document not issued by a
 19 government entity that purports to be a government issued
 20 identification commits a Class A misdemeanor.

21 (b) **A person who knowingly or intentionally produces or**
 22 **distributes a document that is not issued by a government entity**
 23 **and that purports to be a government issued identification commits**
 24 **a Class C felony.**

25 SECTION 9. [EFFECTIVE JULY 1, 2009] IC 9-24-18-7,
 26 IC 35-43-5-2(b), and IC 35-43-5-2.5, all as amended by this act,
 27 apply only to crimes committed after June 30, 2009.

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